



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
-----------------	-------------	----------------------	---------------------	------------------

10/590,490

06/25/2007

Chiara Tonelli

2503-1227

8529

466 7590 07/07/2009

YOUNG & THOMPSON
209 Madison Street
Suite 500
ALEXANDRIA, VA 22314

EXAMINER

WORLEY, CATHY KINGDON

ART UNIT

PAPER NUMBER

1638

MAIL DATE

DELIVERY MODE

07/07/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/590,490	Applicant(s) TONELLI ET AL.	
	Examiner CATHY K. WORLEY	Art Unit 1638	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 24 March 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 15-32 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 15-18 and 32 is/are allowed.
- 6) ☒ Claim(s) 19-21 and 27 is/are rejected.
- 7) ☒ Claim(s) 22-26 and 28-31 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. The amendment filed Mar. 24, 2009, has been entered.
2. Claims 15-32 are pending and are examined in this Office Action

Rejoinder

3. After further consideration, all claims are rejoined.

Objections and Rejections that are Withdrawn

4. The objection to the title is withdrawn in light of the Applicant's amendment of the title.
5. The rejection of claims 15, 22-25, 29, and 32 under 35 USC 112, first paragraph, for lack of written description is withdrawn in light of the Applicant's amendments to the claims.

Claim Objections

6. Claims 19, 20, 22, 25, 26, and 28-31 are objected to because of minor informalities such as lack of subject/verb agreement or the use of an article that is improper for a dependent claim. The Examiner suggests the following amendments to overcome the claims objections:

- For claim 19, replace “the nucleic acid sequence or the encoded product are involved” with - - the nucleic acid sequence or a product encoded by said sequence is involved - - .
- For claim 20, replace “ coding sequences” with - - coding sequence - - and replace “genes” with - - gene - - .
- For claim 22, replace “a genetic construct” with - - the genetic construct - - .
- For claim 25, replace “a vector” with - - the vector - - .
- For claim 26, replace “expression of nucleic acid sequences” with - - expression of a nucleic acid sequence - - .
- For claim 28, replace “expression of nucleic acid sequences” with - - expression of a nucleic acid sequence - - ; and replace “a genetic construct” with - - the genetic construct - - .
- For claim 29, replace “ a construct” with - - the construct - - .

- For claim 30, replace “expression of nucleic acid sequences” with - - expression of a nucleic acid sequence - - ; and replace “a construct” with - - the construct - - .
- For claim 31, replace “expression of nucleic acid sequences” with - - expression of a nucleic acid sequence - - ; and replace “a vector” with - - the vector - - .

Appropriate correction is requested.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

7. Claims 19-21 and 27 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. All dependent claims are included in this rejection.

Claim 19 recites the limitation "the encoded product" in line 2. There is insufficient antecedent basis for this limitation in the claim.

Claim 27 recites the limitation "said heterologous sequence" in line 2. There is insufficient antecedent basis for this limitation in the claim.

Allowable Subject Matter

8. Claims 15-18 and 32 are allowed.

Claims 23 and 24 are objected to as being dependent upon a objected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

9. Due to the new grounds of rejection, this action is a third non-final rejection.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to CATHY K. WORLEY whose telephone number is (571)272-8784. The examiner is on a variable schedule but can normally be reached on M-F 10:00 - 4:00, with additional variable hours before 10:00 and after 4:00 with additional variable hours before 10:00 and after 4:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Anne Marie Grunberg, can be reached on (571) 272-0975. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Cathy K. Worley/
Primary Examiner, Art Unit 1638